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Message Text

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ORIGIN OES-06

INFO OCT-01 EUR-12 ISO-00 L-03 NRC-05 ACDA-07 CIAE-00
INR-07 IO-13 NSAE-00 NSC-05 EB-07 FEAE-00 DODE-00
ERDA-05 HEW-04 EPA-01 CEQ-01 PM-04 H-01 COME-00
TRSE-00 /082 R

DRAFTED BY DBHOYLE:OES/NET/IM:SMJ
APPROVED BY DBHOYLE:OES/NET/IM
L/OES - MR. C. SIEGAL
EUR/RPE - MR. A. D. SENS
NRC - MR. M. GUHIN (SUBS)
----------031606Z 056296 /53
P 021436Z JAN 77
FM SECSTATE WASHDC
TO USMISSION EC BRUSSELS PRIORITY
INFO AMEMBASSY BONN PRIORITY

C O N F I D E N T I A L STATE 000043

E.O. 11652: GDS

TAGS: ENRG, TECH, BE, GE

SUBJECT: HIGHLY ENRICHED URANIUM EXPORTS TO FRG

1. ON DECEMBER 28, NATURAL RESOURCES DEFENSE COUNCIL (NRDC) PETITIONED NRC FOR LEAVE TO INTERVENE IN OPPOSITION TO ISSUANCE OF NRC LICENSE APPLICATION XSNM-1026. THIS APPLICATION, FILED BY TRANSNUCLEAR ON OCTOBER 13, COVERS THE EXPORT OF 16.01 KILOGRAMS OF U-235 IN URANIUM ENRICHED TO 93.3 U-235 (HEU), FOR USE IN THE FRG REACTORS AVR, KNK-II AND FRM. PRESENTLY, APPLICATION IS UNDER REVIEW WITHIN EXECUTIVE BRANCH, IN ACCORDANCE WITH PROCEDURES UNDER E.O. 11902, WITH EXPECTATION THAT IT WILL SHORTLY BE FORWARDED TO NRC WITH RECOMMENDATION FOR ISSUANCE.

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2. PETITIONER'S OBJECTIONS FALL INTO THREE BASIC CATEGO
RIES:
-- A. HTGR (AVR) AND LMFBR (KNK-II) TECHNOLOGY
-- INMERENTLY INVOLVE LARGE QUANTITIES OF HEU AND/OR
-- PLUTONIUM, BOTH WEAPONS USABLE MATERIALS. SINCE
-- THERE IS NO FRG COMMITMENT NOT TO EXPORT THESE
-- TECHNOLOGIES AND "BECAUSE THE FRG HAS SHOWN A

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-- WILLINGNESS TO EXPORT SENSITIVE NUCLEAR TECHNOLO-
-- GIES" (APPARENTLY A REFERENCE TO FRG-BRAZILIAN
-- COOPERATION), DEVELOPMENT OF THESE REACTOR

-- TYPES BY THE FRG WILL INEVITABLY LEAD TO THEIR
-- SPREAD TO OTHER COUNTRIES.

-- B. HEU CANNOT BE EFFECTIVELY SAFEGUARDED. SINCE
-- A NATION MAY, WITHOUT VIOLATING ANY COMMITMENTS,
-- DEVELOP THE CAPABILITY TO FABRICATE A NUCLEAR
-- EXPLOSIVE DEVICE, SUCH A DEVICE COULD BE FABRICATED
-- AND USED IN A VERY SHORT PERIOD AS LITTLE AS ONE
-- DAY") FOLLOWING DIVERSION OF HEU SUPPLIED FOR CIVIL
-- USES. THIS PERIOD IS FAR TOO SHORT FOR EFFECTIVE
-- RESPONSE BY OTHER NATIONS. (THIS IS VERY SIMILAR
-- TO THE "TIMELINESS" ARGUMENT BEING USED TO SUPPORT
-- CONTENTION THAT CHEMICAL REPROCESSING FACILITIES
-- CANNOT BE ADEQUATELY SAFEGUARDED.)

-- C. HEU COULD FALL INTO HANDS OF SUB-NATIONAL
-- TERRORIST GROUPS (WHICH HAVE SHOWN THAT THEY CAN
-- OPERATE EFFECTIVELY WITHIN FRG). IF SUCH GROUPS WERE
-- TO FABRICATE A NUCLEAR WEAPON FROM THIS HEU, THIS
-- ACTION WOULD NOT ONLY BE INIMICAL TO THE U.S. COMMON
-- DEFENSE AND SECURITY BUT ALSO WOULD BE INCONSISTENT
-- WITH NRC'S OBLIGATIONS TO PROTECT THE HEALTH AND
-- SAFETY OF THE PUBLIC.

3. HAVING MADE THESE BASIC POINTS, PETITION GOES ON TO
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CLAIM THAT NRC CANNOT MAKE THE DETERMINATIONS NECESSARY TO
ISSUANCE PROCEDURALLY SINCE, AMONG OTHER THINGS, IT HAS
FAILED TO ESTABLISH WRITTEN CRITERIA TO ASSESS THE RISKS
INHERENT IN THE EXPORT OF HEU. FURTHER, NRDC CONTENDS THAT
NRC MUST PREPARE AND CIRCULATE FOR PUBLIC COMMENT UNDER
NEPA A DETAILED ENVIRONMENTAL IMPACT STATEMENT COVERING
U.S. SUPPORT OF HTGR AND LMFBR DEVELOPMENT IN THE FRG.
(THIS IS CONSISTENT WITH USUAL ENVIRONMENTAL PUBLIC
INTEREST GROUPS CONTENTION THAT NEPA INCLUDES REQUIREMENT
FOR EXTRA-TERRITORIAL ENVIRONMENTAL IMPACT STATEMENTS.)

4. FINALLY, NRDC CLAIMS THAT NRC CANNOT SUBSTANTIVELY MEET
STANDARDS OF ATOMIC ENERGY ACT AND IMPLEMENTING ORDERS AND
REGULATIONS REQUIRED FOR ISSUANCE OF THE LICENSE. AMONG
THE BASES FOR THIS CONTENTION IS ABSENCE OF ANY U.S. RIGHT
TO MONITOR AND APPROVE FRG EXPORT OF HTGR AND LMFBR TECHNO-
LOGY. ALSO, NRDC CITES OVER A DOZEN ALLEGED INADEQUACIES
IN EURATOM SAFEGUARDS SYSTEM, INCLUDING ABSENCE OF VARIOUS
TYPES OF U.S. BACK-UP SAFEGUARDS RIGHTS, LACK OF PHYSICAL

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SECURITY REQUIREMENTS, AND INADEQUATE U.S. KNOWLEDGE OF
OPERATION OF AND INABILITY TO OBTAIN INFORMATION FROM
EURATOM SYSTEM. (NRDC QUOTES FIGURES OF 800,000 DOLLARS
ANNUAL BUDGET AND 50 INSPECTORS AS INDICATIVE OF FAILURE

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OF EURATOM SAFEGUARDS SYSTEM TO PROVIDE "ACCEPTABLE LEVEL
OF SURVEILLANCE OVER HEU.") INTERESTINGLY, ONE ALLEGED
DEFICIENCY IS "FAILURE OF EURATOM TO MAINTAIN A MATERIALS
ACCOUNTING SYSTEM WHICH WOULD PERMIT EFFECTIVE VERIFI-
CATION BY THE IAEA." HOWEVER, NO MENTION IS MADE OF
FAILURE TO BRING EURATOM-IAEA SAFEGUARDS VERIFICATION
AGREEMENT INTO FORCE.

6. COPIES OF COMPLETE PETITION BEING AIR-POUCHED SOONEST.

7. OBVIOUSLY, IT IS IMPOSSIBLE TO PREDICT FUTURE COURSE
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OF EVENTS AT THIS EARLY STAGE. IT IS OF INTEREST, HOW-
EVER, THAT IN CASE OF TARAPUR LEU EXPORT LICENSE INTER-
VENTION, NRC FOUND THAT INTERVENORS--ONE OF WHICH WAS NRDC
--LACKED STANDING (AN INSSUE NOW BEING CHALLENGED IN
COURTS) BUT GRANTED LEGISLATIVE-TYPE PUBLIC HEARING AS
BEING IN PUBLIC INTEREST. IN CASE OF CONGRESSIONAL BLACK
CAUCUS GROUP PETITION TO INTERVENE IN HEU EXPORT LICENSE
FOR SOUTH AFRICAN SAFARI-I RESEARCH REACTOR, COMMISSION
HAS NOT YET TAKEN ACTION ON THE PETITION. FYI--WE UNDER-
STAND THAT NRC STAFF POSITION IS THAT THE COMMISSION
SHOULD TAKE NO ACTION ON PETITION UNTIL RECEIPT OF
EXECUTIVE BRANCH VIEWS, WHICH WE EXPECT TO FORWARD SHORTLY.
--END FYI
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
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Control Number: n/a
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Sent Date: 02-Jan-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
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